

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JEFFREY E. BOOMHOWER,

Plaintiff,

v.

NANCY A. BERRYHILL,

Acting Commissioner of Social Security,

Defendant.

No. 3:16-CV-02148-PK

OPINION AND ORDER

MOSMAN, J.,

On October 25, 2017, Magistrate Judge Paul Papak issued his Findings and Recommendation (F&R) [19], recommending that the decision of the Commissioner should be reversed and remanded for immediate calculation and payment of benefits. The Commissioner filed Objections [21], and Plaintiff responded [22].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation and I ADOPT the F&R [19] as my own opinion. The decision of the Commissioner is REVERSED AND REMANDED for immediate calculation and payment of benefits.

IT IS SO ORDERED.

DATED this 30th day of January, 2018.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge